1949. File No. O/BFCM/49

Legal Deptt.

G BRANCH

Subject:— Opinion under the Bombay foodgrains (control of Movement) Order 1947

P.3/E

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File No. O/Foodgrain Movement/49

Gen. 194 e.

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C O N T E N T S.

Legal Department File No.C/B.F.C.M./49

Sr.No.	R.I./C.No.	Subject.	Pages.
		Opinions under the Bombay Foodgrains (Control of Movement) Order, 1947.	
1.	?/101/31.1.49	Transport of Jawar from Bijapur to Ratnagiri through Miraj State - Whether the provisions of the Order regarding export apply to transport in transit also.	1-2

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Office of the R.L.A.

The view taken in para 1 of the Deputy Director of Civil Supplies (Districts)'s note dated 20th December 1948 is not correct. It is not that the accused contended that the final destination was Ratnagiri District but from the Judgment of the Residen Magistrate, Athani at p.125 it is evident that it was the prosecution story that the accused was carrying jowar from Bijapur to Ratnagiri District and that the prosecution did not allege that the jowar was being taken to Miraj or Kolhapur. In the absence of a specific provision prohibiting 'transport in transit' it is difficult to hold that the provisions of the Bombay Foodgranis (Control of Movement) Order, 1947 regarding 'export' apply to 'transport in transit' also (Ref. oral judgment of Macklin J. in Cr. Rev. No.562 of 1943). The case is, therefore, not a fit one for filing a Revision Application against the order of discharge.

As regards para 2 of the Deputy Director of Civil Supplies (Districts)'s note, it appears that though the case of the accused did not strictly fall under the Bombay Foodgrains (Control of Movement) Order, 1947 the action of the Police is covered by Section 16 of the Essential Supplies (Temporary Powers) Act and the accused is not entitled to any damages for loss incurred as a result of the sale of the Jowar bags in pursuance of the Court's Order. It is competent to the Court to order the sale of goods which are subject to speedy or natural decay under Sectin 516 Criminal Procedure Code and on the conclusion of the trial the Court has passed orders under Sec tion 517 Criminal Procedure Code, regarding the disposal of the property. In view of this there is no liability on Government to make good the loss alleged to have resulted to the accused because of the sale of jowar bags during the

pendancy of proceedings agains him.

Sd/-
Remembrancer of Legal Affairs.

U.R. to C.S.D.-II No.G/101, dated 31.1.49.

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